

DEPARTMENT OF WORKFORCE DEVELOPMENT
DIVISION OF WORKFORCE SOLUTIONS
ADMINISTRATOR'S MEMO SERIES

☐ ACTION
☒ NOTICE 05-26

ISSUE DATE: 12/19/2005
DISPOSAL DATE: Ongoing

*PROGRAM CATEGORIES:

<input type="checkbox"/> AS	<input type="checkbox"/> FM	<input type="checkbox"/> ML	<input type="checkbox"/> TR
<input type="checkbox"/> CC	<input type="checkbox"/> FL	<input type="checkbox"/> NA	<input type="checkbox"/> W-2
<input type="checkbox"/> CS	<input type="checkbox"/> IT	<input type="checkbox"/> RA	<input checked="" type="checkbox"/> WIA
<input type="checkbox"/> CF	<input type="checkbox"/> JC	<input type="checkbox"/> TC	
<input type="checkbox"/> CR	<input type="checkbox"/> LM	<input type="checkbox"/> TA	

To: Workforce Development Board Directors
Workforce Development Board Chairs
Chief Local Elected Officials

From: Bill Clingan /s/
Division Administrator

RE: Workforce Development Board (WDB) Procurement of Program Services Requirements

PURPOSE

To direct WDBs receiving funds from the Division of Workforce Solutions (DWS) through grants and contracts to comply with applicable procurement regulations and requirements.

BACKGROUND

In 2005 the U.S. Department of Labor (DOL) performed an onsite review of procurement systems in two of Wisconsin's local workforce development areas. DOL noted several issues and made recommendations to DWS. The review covered all Workforce Investment Act (WIA) funds, but most of the concerns were with the procurement of youth service providers, such as:

- The entity responsible for developing and issuing the Request for Proposals (RFP) cannot respond to its own RFP. In this case, the entity must allow other agencies the primary chance to respond to the RFP.
- Competitive procurements cannot contain features which unduly restrict competition. For example, requiring a youth service provider to provide all ten youth elements in all counties of the workforce development area would unduly restrict competition.
- Although the administrative entity cannot respond to its own RFP, it may operate the program in certain cases. Only in the event that there are no bidders in response to an open, competitive solicitation, can the administrative entity/fiscal agent be awarded the

* PROGRAM CATEGORIES:

AS--Apprenticeship Standards	FM--Financial Management Requirements	ML--Migrant Labor	TR--Transportation
CC--Child Care	FL--Foreign Labor Certification	NA--Native American Services	W-2--Wisconsin Works
CS--Child Support	IT--IT Systems	RA--Refugee Assistance	WIA--Workforce Investment Act
CF--Children First	JC--Job Center	TC--Tax Credit Programs	
CR--Civil Rights	LM--Labor Market Information	TA--Trade Assistance	

contract on a sole source basis. In this case, the procurement file must contain documentation of a sole source agreement.

- A “request-for-intent” approach (i.e., soliciting interest in applying for funding and not issuing an RFP) is not sufficient to generate competitive proposals. Proposals that are awarded from a continuously rolling solicitation approach do not satisfy the requirement that all procurement transactions shall be conducted in a manner to provide open and free competition.

POLICY

WDBs receiving WIA funds must follow two overarching documents which provide guidance for agencies making procurements using DOL funds. The main requirements are:

Code of Federal Regulations (29 CFR 95.40-48)

- The provider must have a written procurement manual.
- The procurement system must ensure open and competitive purchases.
- All conflict of interests, or the appearance of, must be avoided.
- An agency cannot develop, bid on and award itself a proposal.
- Requests for proposals, when needed, must be issued to others, be flexible and not be overly restrictive.
- Proposals should have due dates and awards should have starting and ending dates.

20 CFR 663 and 20 CFR 664

- WIA procurements generally must be competitively bid.
- WIA Adult and Dislocated Worker procurements may use sole source if a Job Center Agreement/MOU exists among the parties.
- WDBs (grant recipient/fiscal agent) may perform WIA Youth design framework services without using a request for proposal.
- WDBs must attempt to procure WIA Youth non-design framework services.
- Sole source activity is allowable, but the agreement must be documented.
- The WDB’s Youth Council has primary responsibility to recommend or issue awards for youth services.

ACTION SUMMARY STATEMENT

WDBs and LEOs should ensure that they are meeting their responsibility for procurement of WIA service providers. Current procurement policies and procedures should be reviewed to ensure compliance with these requirements. DWS will be reviewing local procurement systems during the Program Year 2005 monitoring cycle for compliance with the above regulations.

QUESTIONS

Any questions regarding this guidance should be directed to Jim Foelker, (608-266-3623 or email: james.foelker@dwd.state.wi.us) in the DWS Grants and Contracts Section or to your appropriate Local Program Liaison.